

UNITED STATES OF AMERICA)
)
 v.) CASE NO. 3:02-CR-151-WKW
) [WO]
 LEWIS McKENZIE)

Before the court is Defendant Lewis McKenzie's *pro se* motion for a reduction of his sentence based upon his rehabilitative efforts while incarcerated. (Doc. # 158.) The United States opposes the motion. (Doc. # 160.) For the reasons below, Mr. McKenzie's motion is due to be denied.

Mr. McKenzie currently is serving a term of imprisonment for drug distribution and firearms offenses. The court’s authority to modify that sentence “is narrowly limited by statute.” *United States v. Phillips*, 597 F.3d 1190, 1194–95 (11th Cir. 2010). Modification is prohibited except in three narrow circumstances:

Phillips, 597 F.3d at 1195. None of those circumstances exists here. The Bureau of

Prisons has not filed a motion. The United States has not moved to reduce Mr. McKenzie's sentence based on substantial assistance to the government. Fed. R. Crim. P. 35(b)(1). Congress has not enacted a statute permitting a sentencing modification that affects Mr. McKenzie's sentence, and Mr. McKenzie's guideline range has not been lowered by the U.S. Sentencing Commission. Additionally, Mr. McKenzie has not identified an "arithmetical, technical, or other clear error" in his sentence within fourteen days of his sentencing. Fed. R. Crim. P. 35(a). As a result, the court has no jurisdiction to reduce McKenzie's sentence.

Mr. McKenzie is commended for participating in programs, taking classes, and developing new skills. The court also is empathetic to his family situation, namely, the loss of his brothers and his parents' declining health. But at the same time, the sentence imposed was based on the sentencing factors in 18 U.S.C. § 3553(a) and the governing law, and Congress has not authorized the sentencing relief that McKenzie seeks. For the reasons above, it is ORDERED that Mr. McKenzie's motion (Doc. # 158) is DENIED.

DONE this 23rd day of July, 2019.

/s/ W. Keith Watkins

UNITED STATES DISTRICT JUDGE